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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,213	06/15/2001	Bengt E.B. Sandberg	33700WC004	5134

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EXAMINER

TRAVERS, RUSSELL S

ART UNIT

PAPER NUMBER

1617

DATE MAILED: 01/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/881,213

Applicant(s)

Sandberg et al

Examiner

R.S. Travers J.D., Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 6, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) 12-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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The election filed November 8, 2002 has been received and entered into the file.

Claims 1-20 are presented for examination.

Applicant's election without traverse of Group I claims 1-11 in Paper No. 7 is acknowledged.

Claims 12-20 reading on non-elected subject matter are withdrawn from consideration

The examiner cannot understand various aspect of the invention because certain portions of the disclosure are illegible. The illegible portion(s) consist of "scheme 1" page 18, lines 11-13; page 20; page 21, "scheme 3"; page 25, diagram under "step 4"; page 26, compound at top of page.

Applicant is required to submit an appropriate amendment rectifying this deficiency. In the alternative, a substitute specification under 37 CFR 1.125(b) may be filed. The substitute specification must be accompanied by: (1) a statement that the substitute specification contains no new matter; and (2) a marked-up copy showing the amendments to be made via the substitute specification relative to the specification at the time the substitute specification is filed.

Claim 11 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 11 is rendered indefinite by presentation of illegible compound diagrams. Applicant's illegible compound diagrams fail to clearly define the subject matter encompassed by the instant claims, thus is properly rejected under 35 USC 112, second paragraph.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-11 are rejected under 35 U.S.C. § 103 as being unpatentable over Norrgren et al and Chen et al in view of Wilber et al.

Norrgren et al and Chen et al teach the use of extracorporeal methods for providing and enhancing various therapeutic regimens, to include radio nuclide anti-cancer therapy. Norrgren et al and Chen et al teach the useful nature of extracorporeal extraction of various toxic medicaments, bound and unbound, employing various

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specific adsorption columns (see Norrgren et al figure 1). Chen et al teach the desirability of extracorporeal extraction via immunoabsorption for various therapeutic regimens (see figure 3). Wilber et al teach the claimed trifunctional linkers as old and well known in combination with various specific therapeutic functional moieties, as herein claimed (see page 20, paragraph 2). These medicaments are taught as useful for adsorbing to a column for extracting various compounds (see page 2, lines 1-2.

Claims 1-11, and the primary references, differ as to;

- 1) the specific recitation of the prior art trifunctional linkers for loading extracorporeal columns, and
- 2) those specific linker lengths herein claimed.

As stated above, Wilber et al teach the instant trifunctional linking compounds as useful for adsorbing to a column for extracting various compounds (see page 2, lines 1-2). Norrgren et al teach the useful nature of extracorporeal extraction of various toxic medicaments, bound and unbound, employing various specific adsorption columns (see Norrgren et al figure 1). In figure 1, Norrgren et al illustrate the use of a column with specific adsorbed linkers for removing toxic medicaments extracorporeally, as herein claimed. This teaching would have motivated the skilled artisan to employ various linking agents, such as those taught by Wilber et al, in removing toxic agents extracorporeally. Attention is directed to Wilber et al teaching problems of stearic hindrance with employing various linking compounds; with these hindrance problems

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overcome with those linkers disclosed by Wilber et al (see pages 38-40) motivating the skilled artisan to employ those linkers taught by Wilber et al. Stearic hindrance is taught by Wilber et al as reduced by his linking agents (see compounds 46 and 48), and with the ideal linker chain length being 20-60 angstroms (see page 29).

Possessing the Examiner cited prior art, the skilled artisan would have been motivated to employ extracorporeal extraction of toxins associated with therapeutic regimens.

Wilber et al teach the instant trifunctional linking agents as old and well known for linking the claimed various specific therapeutic functional moieties, as herein claimed (see page 20, paragraph 2). It is generally considered prima facie obvious to combine two compounds each of which is taught by the prior art to be useful for the same purpose, in order to form a composition which is to be used for the very same purpose. The idea for combining them flows logically from their having been used individually in the prior art. As shown by the recited teachings, the instant claims define nothing more than the concomitant use of two conventional anti-inflammatory agents. It would follow that the recited claims define prima facie obvious subject matter. Cf. In re Kerhoven, 626 F.2d 848, 205 USPQ 1069 (CCPA 1980). The skilled artisan possessing the Examiner cited teachings would have seen trifunctional linking compositions, and the administration of these compounds to columns for extracorporeal extraction of therapeutic toxins as residing in the skilled artisan purview.

No claims are allowed.

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Any inquiry concerning this communication should be directed to Russell Travers at telephone number (703) 308-4603.

A handwritten signature in black ink, appearing to be 'RS' with a flourish, enclosed within a circular stamp.

Russell Travers
Primary Examiner
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